

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MEDICAL SUPPLY DISTRIBUTION, LLC,)	CASE NO. 2:21-cv-00161
)	
Plaintiff,)	JUDGE MICHAEL H. WATSON
)	
v.)	MAGISTRATE JUDGE
)	CHELSEY M. VASCURA
CHEM & CONSULT, INC., et al.,)	
)	<u>SECOND JOINT MOTION TO MODIFY</u>
Defendants.)	<u>CASE SCHEDULE</u>

Pursuant to Fed. Civ.R. 6(b)(1) and 16(b)(4) and S.D. Ohio Civ. R. 16.2, Plaintiff Medical Supply Distribution, LLC, Defendant Chem & Consult, Inc., and Defendant Mitch Goodman (collectively, the “Parties”) respectfully jointly move for modification of the pretrial case schedule as set forth in the Court’s February 24, 22 Notation Order granting the Parties’ Motion for Extension of Time. (ECF No. 61). The Parties seek this modification for good cause, as more fully explained in the attached Memorandum in Support. This motion is not interposed for delay.

Respectfully submitted,

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)	
v.)	MAGISTRATE JUDGE
)	CHELSEY M. VASCURA
CHEM & CONSULT, INC., et al.,)	
)	
Defendants.)	<u>MEMORANDUM IN SUPPORT OF THE</u>
)	<u>PARTIES' SECOND JOINT MOTION TO</u>
)	<u>MODIFY CASE SCHEDULE</u>

Plaintiff Medical Supply Distribution, LLC (“Medical Supply”), Defendant Chem & Consult, Inc., and Defendant Mitch Goodman (collectively, the “Parties”) jointly move for modification of the pretrial case schedule as set forth in the Court’s February 24, 22 Notation Order granting the Parties’ Motion for Extension of Time. (ECF No. 61). Fed. R. Civ. P. 16(b)(4) provides: “A schedule may be modified only for good cause and with the judge’s consent.” S.D. Ohio Civ. R. 16.2 similarly provides:

Scheduling orders will be issued in conjunction with preliminary pretrial procedures established by the Judges of this Court, which normally will be implemented within ninety days after filing of an action. In any action assigned to a Magistrate Judge for that purpose, the Magistrate Judge is empowered to enter scheduling orders under Fed. R. Civ. P. 16(b), and to modify scheduling orders upon a showing of good cause.

(Emphasis added). Good cause exists to modify and extend the case deadlines set in the Court’s February 24, 22 Notation Order granting the Parties’ Motion for Extension of Time (the “Deadlines”). (ECF No. 61).

Specifically, on December 6, 2021, Medical Supply moved for leave to file its Amended Complaint (the “Motion for Leave”). (ECF No. 49). On January 2, 2022, the Court granted Medical Supply’s Motion for Leave and, to permit additional time for additional discovery related

to the new claims asserted in Medical Supply's Amended Complaint, also extended the original case deadlines. (ECF No. 52).

On February 23, 2022, the Parties filed a Joint Motion for Extension of Time. (ECF No. 60). This request was made due to Defendants' outstanding, voluminous discovery responses, Defendants' lack of availability over an entire month for Defendant Chem & Consult, Inc.'s 30(b)(6) deposition, immediate expert report deadlines, and potential mediation in mid-April. The Court granted the Parties' Joint Motion for Extension of Time the next day on February 24, 2022.

Medical Supply proceeded with its discovery, taking Defendant Chem & Consult, Inc.'s 30(b)(6) deposition on April 4, 2022. Medical Supply also produced its expert report on April 18, 2022. No rebuttal expert reports were produced.

Under the Deadlines, the discovery cut-off is June 17, 2022. Still, Defendants served their very first set of written discovery to Medical Supply on May 10, 2022, nearly a month before the discovery cut-off. Three days later, on May 13, 2022, Defendants' counsel contacted Medical Supply's counsel to informally notice its first depositions of three witnesses.

Based on this, Medical Supply is required to gather information and produce voluminous documents in response to Defendants' first set of written discovery, prepare three witnesses for deposition, and defend all three depositions, all before June 17, 2022. Unless the Deadlines are extended, the Parties will be forced to fight over schedules and witness availability, conduct piecemeal and fitful discovery, and incur substantial litigation costs. However, if the Deadlines are extended as requested, the Parties will have the opportunity to proceed in an orderly and efficient fashion, to forgo (or at least defer) certain costs, to focus on the merits of the case, and to explore settlement possibilities in a thoughtful and informed manner.

This brief extension will not prejudice either party and will not unduly delay case management as no trial date has yet even been set. In view of the foregoing developments, the Parties now move to extend the Deadlines by forty-five (45) days. The Parties jointly submit the following amended case schedule, in lieu of the Deadlines set forth in the Court's February 24, 22 Notation Order granting the Parties' Motion for Extension of Time (ECF No. 61):

Proposed Deadlines:

- | | | |
|-----|---------------------------|-------------------|
| (1) | Discovery cut-off: | August 1, 2022 |
| (2) | Case-dispositive motions: | September 1, 2022 |

In conclusion, good cause having been shown, and the Parties being in agreement, the Parties respectfully request that the Court grant the Parties' Second Joint Motion to Modify Case Schedule.

Respectfully submitted,

/s/ Marc S. Blubaugh
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically filed on this 1st day of June, 2022. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Marc S. Blubaugh
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*One of the Attorneys for Plaintiff Medical Supply
Distribution, LLC*